REMARKS

Claims 1-22 remain in the application. No claim has been amended.

In the Official Action, claims 1-22 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Tang et al. (US 5,793,365) in view of "HOT or NOT" (www.hotornot.com). This rejection is respectfully traversed.

The claims are directed to a method (claims 1-11) and a web server (claims 12-22) for matching members of an online community based on personal profile characteristics including physical attractiveness. In other words, the invention relates to a method and server programmed to implement an online dating community that matches users based on personal profiles including physical attractiveness. The method includes the steps of receiving rankings of the physical attractiveness of the respective members of the online community from other members of the online community in a manner similar to that taught by HOT or NOT. However, while HOT or NOT simply shows the physical attractiveness rankings of the members of the online community and facilitates an online "meeting" if the user would like to meet a featured member, the present invention goes much further by storing such physical attractiveness information with other characteristic data of the respective members of the online community and facilitating a search of the stored profile data based on the physical attractiveness rankings. As will be explained below, such features are not taught or suggested by Tang et al.; therefore, even if the teachings of Tang et al. could have been combined with HOT or NOT as the Examiner proposes (and Applicant finds no such suggestion), the claimed invention would not have resulted.

As set forth in M.P.E.P. §§2142-2143.03, in order to establish a *prima facie* case of obviousness, patent examiners are required to establish three criteria: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference, or combination of references, must teach or suggest all the claim limitations. The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To make a proper obviousness determination, the examiner must "step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the

art' when the invention was unknown and just before it was made."   In view of the available factual information, the examiner must make a determination as to whether the claimed invention "as a whole" would have been obvious at that time to a person of ordinary skill in the art.   Importantly, a rejection based on these criteria must be based on what is taught in the prior art, not the applicant's disclosure.   The applicant's disclosure may not be used as a blueprint from which to construct an obviousness rejection.

In the present case, the Examiner has generally alleged Tang et al. teaches all of the claimed elements except for the step of "accepting rankings of the physical attractiveness of the respective members of the online community from other members of the online community" but further alleges that this feature is taught in HOT or NOT.   The Examiner further alleges that it would have been obvious to modify the system taught by Tang et al. to incorporate the physical attractiveness rankings of the respective members of the online community from other members of the online community and storing the accumulated community rankings of the physical attractiveness of the respective members of the online community with other characteristic data of the respective members of the online community as purportedly taught by HOT or NOT.   The only reason for such modification offered by the Examiner is that the teachings of HOT or NOT would make the dating method of Tang et al. "more versatile and increase the matching capability."   Applicant submits that the Examiner has misconstrued the teachings of the Tang et al. patent and has clearly failed to establish *prima facie* obviousness.

The Tang et al. patent relates to a computer system and method that provides an interface through which a user may determine if other members of his workgroup are available for communication and facilitate communication if the person is available.   Visual representations of each online user in a particular workgroup indicate whether the user is online, while other indicators indicate the activity level of the users.   This information allows a user to determine visually whether another user is available for an online chat.   Clearly, the Tang et al. system is not an online dating system and clearly provides no characteristic profile data of the respective members that may be used to search for "matching" members.   On the contrary, the Gallery Window indicates the members of the respective groups that are online so that no searching is necessary.   Clearly Tang et al. do not teach storing information about the physical attractiveness of the other users and to search for other users based on their

physical attractiveness, particularly given the fact that the Tang et al. system is particularly designed for the user to communicate with co-workers with whom the person is likely already familiar and not likely seeking to date! In short, other than illustrating a well-known technique for posting photographic images of online users in a limited online community, the teachings of Tang et al. do not appear to have any relevance to the claimed invention.

As noted above, HOT or NOT teaches a technique for ranking the physical attractiveness of the members of the online community and facilitating an online "meeting" if the user would like to meet a featured member. HOT or NOT does not teach storing such physical attractiveness rankings and facilitating a search based on such rankings.

Accordingly, neither Tang et al. nor HOT or NOT teaches "storing accumulated community rankings of the physical attractiveness of the respective members of the online community with other characteristic data of the respective members of the online community" and "facilitating a search of a member database by a member of the online community for other members of the online community having physical attractiveness rankings in a range specified by the member" as claimed. Since not all of the claimed features are taught in the cited references separately or considered together, there can be no *prima facie* obviousness and withdrawal of the obviousness rejection is appropriate. Also, as will now be addressed, motivation to combine the teachings of these references is lacking as well.

As far as Applicant can tell, the Examiner alleges that Tang et al. teach the steps of "accepting and posting photographic images" and "facilitating a search of a member database" and alleges that HOT or NOT teaches "accepting and storing the physical attractiveness rankings" with other characteristic data as claimed. As just noted, neither reference teaches storing physical attractiveness rankings with characteristic user data and searching a member database based on physical attractiveness rankings specified by a searching member.

Applicant further submits that the Examiner has failed to provide a sufficient explanation as required by M.P.E.P. §706.02(j) of why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification of the Tang et al. system. Whether or not the Tang et al. system *can* be modified as proposed by the Examiner does not render the resulting combination obvious unless the prior art also

suggests the desirability of the combination. The Examiner has not provided sufficient motivation to combine the teachings of the cited references and has thus failed to establish *prima facie* obviousness. Accordingly, withdrawal of the rejection of claims 1-22 is believed to be proper and is respectfully solicited.

CONCLUSION

For all the foregoing reasons, Applicant respectfully submits that the present application is now in condition for allowance. Withdrawal of all rejections and issuance of a Notice of Allowability are respectfully requested.

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